

BOARD MEETING
MINUTES
February 14, 2018

The North Carolina Board of Funeral Service met for a duly scheduled Board Meeting at 9:00 a.m. on February 14, 2018, at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina.

Present: Matt Staton, President; Charles Graves, Vice President; Steve Herndon, Secretary; Valdus Lockhart; Craig Olive; Mark Blake; Don Brown; and Mike Stone.

Also Present: Catherine Lee, Executive Director; Staff members Amy Mauldin, Brett Lisenbee and Chris Stoessner; Bill Forsberg, Executive Director of the North Carolina Funeral Directors Association; Dorman Caudle with Carolina Donor Services; Fred Jordan, Miracles in Sight; Blake Nelson, SCI North Carolina.

Mr. Staton called the meeting to order and led the Pledge of Allegiance. Mr. Brown had the invocation.

Mr. Staton read the Ethics Statement.

Mr. Staton reminded everyone to turn off their cell phone ringers and the guests introduced themselves.

Mr. Staton indicated that Mr. Watson had received confirmation of his appointment to the Board but was unable to be present at the board meeting due to a death in his family.

Mr. Stone entered the meeting at this time.

January Minutes: Mr. Herndon stated the draft January meeting minutes were available and then made the motion to approve the minutes. Mr. Blake seconded and the motion carried.

Public Comment: Mr. Staton reminded everyone that this was not a question and answer session. Mr. Jordan made comments regarding the Continuing Education classes listed on the board website alphabetically rather than by date.

Preneed Committee Report: Mr. Blake stated that the Preneed Committee members met by teleconference on Wednesday, Feb. 7, 2018 and makes the following recommendation:

- Deny Preneed Recovery Fund Claim P16-044 in the amount of \$4,287.00 but refer the matter to the Disciplinary Committee.

Ms. Lee offered additional information regarding the denial of P16-044. Discussion ensued.

Mr. Stone asked that the Board be updated on the status of this matter following its referral to the Disciplinary Committee. Mr. Blake made a motion to deny P16-044. Mr. Graves seconded and the motion carried.

Finance and Personnel Committee Report: Mr. Herndon stated that all members of the Finance & Personnel Committee met via teleconference on Thursday, February 8, 2018. The Committee reviewed the following items:

- Balance Sheet and P/L Statement, as of January 31, 2017;
- Draft Summary of Executive Director's Daily Operational Responsibilities;
- Follow-up information regarding medical insurance coverage benefits offered to Board employees; and
- Applicants for the Executive Director position.

The Committee did not bring any recommendations to the Board at this time.

Mr. Herndon asked for a closed session at the conclusion of the open session meeting to discuss the Executive Director position interviews.

Mr. Herndon made a motion to accept Profit and Loss Statement and Balance Sheet. Mr. Graves seconded and the motion carried.

Traineeship Committee Report: All members of the Traineeship Committee met via teleconference on Tuesday, February 6, 2018. The Committee discussed the following items:

- Review of detailed statistics related to the composition of the Traineeship Program;
- Current trends observed in the administration of the Traineeship Program; and
- Proposed outreach efforts via the Board's website and newsletter to remind trainees and supervisors that work reports must be completed fully and accurately, and that they must let the Board staff know when the traineeship ends.

The Committee recommends the following:

Recommendation No. 1: Implement a standardized discipline, such that trainees and their respective supervisors will receive warning letters on the first two times that a deficient work report is submitted to the Board. Upon the third submittal of a deficient work report, the trainees and their respective supervisors will be notified in writing that the trainees will lose credit for the month in which the third deficient work report is submitted.

Mr. Blake made a motion to accept the recommendation of the Committee. Mr. Olive seconded and the motion carried.

Disciplinary Committee Report: Mr. Herndon stated that the Disciplinary Committee met on February 8, 2018, and brings the following recommendations:

- Dismissals – C17-075; C17-085; C17-086

- Letters of Caution – M17-046; M17-047; M17-049; M18-001; M18-002; M18-003; M18-005
- Consent Orders – M17-031 (*Mr. Lockhart recused himself from this matter)
- Notices of Hearing – C17-070/M17-038; M17-045; M17-040/M17-048; M18-004
- Other Matters – M18-006

Mr. Blake asked the M17-031 be voted on separately.

Discussion ensued regarding M18-006. Mr. Blake asked for clarification regarding M18-003. Ms. Lee offered additional information. Discussion ensued. Mr. Brown asked for clarification regarding refunds to estates. Discussion ensued.

Mr. Blake made a motion to accept the report with the exception of M17-031. Mr. Graves seconded and the motion carried.

Mr. Blake discussed a case in West Virginia where a funeral director had absconded with preneed money. Discussion ensued. Ms. Lee offered to retrieve a consent order regarding previous disciplinary action imposed upon the licensee previously engaged in preneed sales for the Respondent Establishment. The recommendation for M17-031 was tabled.

Crematory Authority/Mutual Burial Association Report: Mr. Staton stated that all members of the Crematory Authority/Mutual Burial Association Committee met via teleconference on Monday, February 12, 2018 at 8:30 AM. The Committee reviewed the following items:

- Board staff compliance opinions regarding licensees' offering of direct online cremations in North Carolina; and
- Board policy regarding the bonding requirements for mutual burial associations that with assets of \$10,000 or less.

The Committee brings the following recommendations to the Board:

1. Direct Board staff to provide compliance opinions consistent with the following: The offering and/or providing of direct online cremations in North Carolina by licensees holding an active funeral establishment permit, unaffiliated license, or crematory permit issued by the Board currently is compliant with the Board's statutes and rules, provided that said licensees must comply with all statutes and rules governing the practice of funeral service and cremations that otherwise would apply if the arrangements were made in person.
2. NCGS 90-210.95 provides that each MBA with assets of \$10,000 or less must have a bond payable to the Board as trustee in an amount not less than \$1,000 and not more than \$10,000, in the discretion of the Board. As such, the Board shall require associations with assets less than \$10,000 to maintain a bond that, at a minimum, is equal to or greater than the fund balance at all times, as determined by the Board's inspectors, but at no time less than \$1,000.00.:

Discussion ensued regarding online direct cremations. Mr. Lisenbee entered the meeting at this time and offered additional information regarding Board precedent in regulating direct online cremations. Mr. Nelson with SCI North Carolina offered additional information regarding the manner in which direct online cremations are regulated in Virginia.

Mr. Jeff Gray and Ms. Craven, the Board's administrative law counsel, entered the meeting at this time.

Mr. Herndon made a motion to accept the recommendations. Mr. Graves seconded and the motion carried.

Mr. Lisenbee asked for clarification regarding whether Recommendation No. 1 from the Crematory Authority/Mutual Burial Association Committee would apply to all online funeral sales online, as well as online direct cremations. Board agreed that it would.

Mr. Lisenbee offered additional information regarding disciplinary matter M17-031. Discussion ensued. Mr. Herndon made a motion to accept the recommendation for M17-031. Mr. Brown seconded and the motion carried. Mr. Blake opposed.

Executive Director's Report: Ms. Lee offered the following information:

As of February 1, Board staff has processed the following 2018 licensure renewal applications:

- Approximately 739 individuals online
- Approximately 1,835 individuals by paper
- Approximately 190 at-need establishments online
- Approximately 550 at-need establishments by paper

The following licensees failed to timely renew their permits

- 112 individuals
- 11 at-need funeral establishments
- 13 pre-need funeral establishments
- 21 transporters

Additionally, one establishment's renewal application was denied for failure to have a licensee as an owner; three establishments' renewal applications were denied because the business is on a revenue suspension with the NC Department of Revenue; and two establishments' renewal applications were denied because the entities have been administratively dissolved by the NC Secretary of State. Notification letters of licensure expiration were sent to licensees last week. Consent orders will be offered to those who wish to re-instate their licensure, consistent with terms recommended by the Board.

Approximately 1,300 recipients opened the December 2017 e-newsletter. The Board had approximately 900 visitors to our website in the last week and approximately 3,000 within the last month.

The 2017 Preneed Annual Reports were mailed out to preneed establishments during the week of January 22. Licensees already have been returning the reports well in advance of the March 31 deadline, and Board staff appreciates their prompt attention.

The deadline for mutual burial associations to return their 2017 financial statements to the Board is February 15. A \$25/per day late fee is assessed for each day after February 15 that the report is not timely filed with the Board.

Ms. Lee attended the North Carolina Vital Records' Electronic Death Registration Business Partners Advisory Group on January 23, 2018 at the NC Division of Public Health. VitalChek was selected in January 2018 by the State as the vendor that will be implementing and administering the EDRS. The system currently is in implementation, and the Division anticipates that it will have five modules in total: 1) Funeral Director module; 2) Medical Examiner module; 3) Local Registrar module; 4) Register of Deeds module; and 5) State Registrar module. The modules will allow for data-sharing and real-time surveillance of data. The Division currently estimates that the implementation and testing will take several years before its "go-live" date.

Licensees should be aware that the North Carolina Certificate of Death form has been revised with two new field label changes as shown below:

- Field Label #17, previously listed as FATHER'S NAME (First, Middle, Last), is now changed to FATHER/PARENT NAME (First, Middle, Last)/(Last Name Prior to First Marriage)
- Field Label #18, previously listed as MOTHER'S NAME PRIOR TO FIRST MARRIAGE (First, Middle, Last), is now changed to MOTHER/PARENT NAME (First, Middle, Last)/(Last Name Prior to First Marriage)

The revised death certificate currently is available on DHHS, Division of Public Health, Vital Records' website (<http://vitalrecords.nc.gov/>) under the "Funeral Director" tab. NC Vital Records has informed local health departments that the updated form must be used no later than March 1, 2018 and previous versions will no longer be accepted thereafter.

As a reminder, the Ethics Commission is accepting 2018 SEI forms that Board members must file by April 15th, 2018. Hard copies of the forms are in your Board materials this month. Questions regarding the SEI forms may be directed to the Board's ethics liaison, Brett Lisenbee.

The appointment of Mr. Watson as the Board's newest member, as well as the re-appointments of Mr. Lockhart and Mr. Herndon, have been received from the Governor's Office.

Discussion ensued regarding how to proceed with late renewals. Mr. Graves made a motion to require a reinstatement fee, renewal fee and a compromise penalty for all late renewals. Mr. Brown seconded and the motion carried.

Discussion ensued regarding the continuing education class listings on the Board website.

Discussion ensued regarding the online death registration system.

Discussion ensued regarding new fields on the North Carolina Certificate of Death forms.

Mr. Stoessner entered the meeting at this time and offered additional information regarding Medical Examiner PowerPoint presentation. Discussion ensued. Mr. Blake asked that the Board be allowed to study the PowerPoint over the next month before deciding how to proceed with distribution.

Ms. Lee offered additional information regarding the article about the West Virginia preneed issue, and the importance of the Board's role to protect public health, safety and welfare through the consistent and impartial regulation of the funeral service industry. Ms. Lee thanked the Board members for their service and the careful and deliberate manner in which they review all matters coming before them. Discussion ensued.

Ms. Lee offered additional information regarding two (2) requests for an extension of time to file the 2017 annual report required by N.C. Gen. Stat. § 90-210.81. Discussion ensued. Mr. Herndon made a motion to grant the two (2) requests for an extension of time, up to thirty (30) days. Mr. Olive seconded and the motion carried.

Ms. Lee brought the matter of the vote on two (2) requests for Temporary Waiver of Funeral Establishment Permit Requirements During Emergency Occurrence. Discussion ensued. Mr. Graves made a motion to approve both requests. Mr. Brown seconded and the motion carried.

Compliance Liaison / Lead Inspector's Report: Ms. Lee offered the following information:

PRENEED CONTRACTS:

- As of the last Report to the Board, 2,083 preneed contracts were recorded. Of that amount, 254 were trust funded whereas 1,829 were insurance funded contracts. For the reporting period, an average of 61 new preneed contracts were filed daily.
- Approximately 1,385 Certificates of Performance have been processed.
- There are 182,403 active contracts as of February 13, 2018.
- Preneed contracts received as of February 9, 2018 have been entered.
- There are 1,443 individuals licensed to sell preneed as of February 9, 2018.

No new funeral homes have been licensed since the last Board meeting

No funeral homes have had a change of ownership since the last Board meeting.

AT-NEED REPORT:

Licenses Issued between January 1, 2018 and February 1, 2018

Chapels	None
Crematories	None
Transporters	None
Unaffiliated Licensees	None
Funeral Establishments	None
Funeral Service Licensees	Kent H. Brondel – Beaufort – 1/24/2018 Phrederic D. Dold – Hickory – 1/5/2018 Raven C. Jones – Red Springs – 1/1/2018 Cecilia A. Leonard – Lexington – 1/5/2018 Caleb J. Massey – Burlington – 1/26/2018
Funeral Directors	Richard S. Nixon – Hamptonville – 1/22/2018 Matthew L. Shuler – Indian Trail – 1/1/2018
Trainees (Starting February 1, 2018)	Patricia M. Asbell – Wilmington Funeral & Cremation Veronica J. Bailey – Unity Funeral Services Patricia A. Daniels – Leon Randolph Funeral Home Dequalyn S. Dawson – Stevens Funeral Home Ebony K. Garner – First Family Funeral & Cremation Service Audry Jones – Wiseman Mortuary, Inc. Holly M. Morgan – Townson-Rose Funeral Home Elizabeth M. Morris – Heritage Funeral & Cremation Service Ella A. Musick – Memorial Funeral Service Michael A. Ratliff – Holloway Memorial Funeral Home Wendy R. Windham – Justin G. Abernathy

Inspection Report: Ms. Lee offered the following information:

- 28 Funeral Establishments were inspected
- 27 Preneed Establishments were inspected
- 1 Crematory were inspected
- 2 Unaffiliated Licensees were inspected
- 0 Chapels were inspected
- 5 Mutual Burial Associations were inspected
- 1 Embalming Facility was inspected
- 3 Notices of Hearing were served

- 150 Compliance calls were received
- 2 Continuing Education classes were taught
- 6 Compliance emails were issued

Mr. Stone commended Ms. Lee on her communication with Board members regarding the recent inclement weather schedule.

Mr. Blake asked for clarity regarding how crematory inspections are tracked.

Attorney's Report: Ms. Lee offered the following information:

DISCIPLINARY MATTERS

- Current Active Cases: 43
- Pending Investigation: 7
- Pending Review by Disciplinary Committee: 9
- Pending Dispositive Action: 15
 - Pending Hearing: 11
 - Post-Hearing: 0
 - Other: 1 (stayed per Board Order)
- New files opened since last Board meeting: 23
- Notices of Hearing sent since last Board meeting: 1
- Consent Orders received since last Board meeting: 1
- Cases reviewed by Disciplinary Committee since last Board meeting: 15

PRENEED RECOVERY FUND CLAIMS

- Current Active Preneed Recovery Fund Claims: 2
 - Preneed Recovery Fund Claims received since last Board meeting: 1
 - Preneed Recovery Fund Claims re-opened since last Board meeting: 1
- Preneed Recovery Fund Claims reviewed by Preneed Committee since January Board meeting: 1

Ms. Lee offered information regarding the Trainee Supervisor Certification Course being eligible for continuing education credit. Mr. Graves made a motion to make the Trainee Supervisor Certification Course a standard 1-hour continuing education class. Mr. Brown seconded and the motion carried.

Mr. Graves asked for a recess.

Old Business: Vote to repeal 21 NCAC 34A.0122; 21 NCAC 34A.0127; 21 NCAC 34B.0120; 21 NCAC 34B.0208; 21 NCAC 34B.0211; 21 NCAC 34B.0510; 21 NCAC 34B.0610 was postponed until a later Board meeting to occur within the next 12 months.

New Business: None.

Mr. Lisenbee offered additional information regarding crematory inspections. Discussion ensued.

Mr. Herndon made a motion to go into closed session for the purpose of consulting with in-house counsel in order to preserve attorney-client privilege, pursuant to NCGS 143-318.11 and for the purpose of discussing the qualifications, competence, and performance of an applicant for employment, pursuant to NCGS 143-318.11. Mr. Brown seconded and the motion carried.

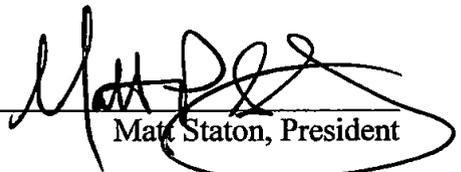
Upon proper motion, the meeting was brought back into open session and the hearing on the matter of Board Case No. M15-027 began.

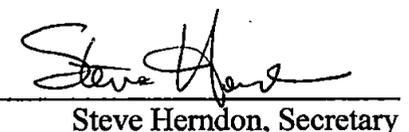
At the conclusion of the Board Case No. M15-027, Mr. Staton made a motion to go into closed session to deliberate on the proceedings. Mr. Stone seconded and the motion carried.

At the conclusion of the Board's closed session, Mr. Graves made a motion to bring the Board back into open session. Mr. Blake seconded and the motion carried. Mr. Staton directed Ms. Lee to prepare a final agency decision in Board Case No. M15-027. Mr. Staton made a motion to recess the meeting until 3:00 p.m. Mr. Stone seconded, and the motion carried.

At 3:00 p.m., the meeting resume and, upon proper motion, the Board went into closed session for the purpose of discussing the qualifications, competence, and performance of an applicant for employment, pursuant to NCGS 143-318.11. Upon the conclusion of the closed session, Mr. Herndon made a motion to bring the Board back into open session. Mr. Graves seconded and the motion carried. Mr. Herndon made a motion to recess the meeting until Thursday morning, February 15, 2018 at 9:00 a.m. Mr. Graves seconded and the motion carried.

On Thursday, February 15, 2018, the Board resumed its duly-scheduled Board Meeting at 10:00 a.m. at the Board's office, 1033 Wade Avenue, Suite 108, Raleigh, North Carolina. Upon motion by Mr. Graves, and a second by Mr. Olive, the Board went into closed session for the purpose of discussing the qualifications, competence, and performance of an applicant for employment, pursuant to NCGS 143-318.11. Upon the conclusion of the closed session, Mr. Lockhart made a motion to bring the Board back into open session. Mr. Graves seconded and the motion carried. Mr. Herndon made a motion to hire Mr. Stephen E. Davis as the Board's Executive Director. Mr. Graves seconded, and the motion carried.


Matt Staton, President


Steve Herndon, Secretary